

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

June 27, 2005

In Reply Refer To:
Texas Gas Transmission, LLC
Docket No. RP05-363-000

Texas Gas Transmission, LLC
3800 Frederica Street
Owensboro, KY 42301

Attention: Kathy D. Fort
Manager, Certificates and Tariffs

Reference: Reservation of Capacity for Future Expansion Projects

Dear Ms. Fort:

1. On June 1, 2005, Texas Gas Transmission, LLC (Texas Gas) filed revised tariff sheets¹ to add a new section to the General Terms and Conditions (GT&C) of its tariff which will permit Texas Gas to reserve capacity, under certain conditions, for future expansion projects. Texas Gas also proposes to revise its GT&C to permit Texas Gas to eliminate the applicability of the right of first refusal (ROFR) procedures to interim service agreements entered into for service on the reserved capacity during the period it is reserved. The Commission will grant a waiver of the notice requirement and accept the revised tariff sheets effective July 1, 2005, subject to the conditions discussed below. This order benefits customers and the pipeline because it permits efficient planning of pipeline expansions and reasonably allows all customers access to pipeline capacity consistent with Commission policy.

2. Texas Gas' proposal would add a new section 33 to its GT&C permitting it to reserve, for future expansion/extension projects, any unsubscribed capacity or capacity under expiring service agreements where such agreements do not have a right of first refusal or the shipper does not exercise its right of first refusal. Before reserving any capacity, Texas Gas will first post that capacity for bid on its Informational Postings web site, in order to ensure that the capacity to be reserved is truly unsubscribed (mandatory pre-reservation open season). In addition, Texas Gas will hold an open season for the expansion/extension either before reserving existing capacity for the expansion/extension or within one year after reserving the existing capacity (expansion open season).

¹ Fourth Revised Sheet No. 201, First Revised Sheet No. 280, Second Revised Sheet No. 283, First Revised Sheet No. 284, and Sheet No. 285 to FERC Gas Tariff, Second Revised Volume No. 1.

3. Proposed section 33 permits Texas Gas to reserve capacity for a 12-month period prior to Texas Gas filing for certificate approval for construction of proposed expansion/extension facilities, and thereafter, until such expansion/extension facilities are placed in service. Texas Gas will post a notice on its Informational Postings web site when it is reserving capacity for a future expansion/extension and include in the notice a description of the project for which the capacity will be reserved, the quantity of the capacity to be reserved, the location of the reserved capacity, and other relevant information. If the amount of unsubscribed capacity being reserved is insufficient to serve the expansion/extension project, Texas Gas will also include in its notice of reservation of capacity posting, or in the open season for the expansion/extension project, a non-binding solicitation for turnback capacity from the existing shippers to serve the expansion/extension project. Texas Gas' proposal also specifies that any capacity reserved for a future expansion/extension project that does not go forward will be reposted as generally available capacity within 30 days of the date that the capacity becomes available.

4. Finally, section 33 provides that Texas Gas will make available any reserved capacity on a limited-term basis up to the in-service dates of the expansion/extension project. Texas Gas reserves the right to limit any contract extension rights in such interim service agreements and in the right of first refusal (ROFR) provision of Section 32, so that such contracts cannot be extended beyond the in-service date of the expansion/extension. Texas Gas is also revising section 32.4, Right of First Refusal Procedure, of its GT&C to set forth that a ROFR will not be applicable to limited-term service agreements associated with expansion/extension projects.

5. Public notice of Texas Gas' filing was issued June 7, 2005, with interventions and protests due as provided in section 154.210 of the Commission's regulations (18 C.F.R. ¶ 154.210 (2005)). Pursuant to Rule 214 (18 C.F.R. ¶ 385.214 (2005)), all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. Western Tennessee Municipal Group, Jackson Energy Authority, City of Jackson, Tennessee, and the Kentucky Cities (Cities) filed comments on Texas Gas' proposal.

6. Texas Gas' proposal is generally consistent with other similar pipeline proposals the Commission has previously accepted.² However, Texas Gas' proposal lacks several features the Commission has required of other pipelines. Cities states that, while Texas Gas' proposal specifies that Texas Gas will post the capacity for sale before reserving it, the tariff is silent with respect to the procedures and standards for awarding the capacity. The Commission directs Texas Gas to revise its proposal to provide that in its pre-reservation posting Texas Gas will post and award capacity in accordance with its

² *Midwestern Gas Transmission Company (Midwestern)*, 106 FERC ¶ 61,229 (2004); *Kern River Gas Transmission Company (Kern River)*, 105 FERC ¶ 61,114 (2003).

existing tariff (see *Midwestern* at P 10). Cities requests that the Commission require Texas Gas to revise its proposal to provide that it will assure that the minimum terms and conditions used for both the mandatory pre-reservation open season and the expansion project open season are the same. Cities points out that the Commission imposed a similar requirement in *Kern River* (at P 15). The Commission directs Texas Gas to revise its proposal to provide that if there are material differences between the terms and conditions imposed on the expansion project open season and the mandatory pre-reservation open season, Texas Gas will hold another open season for the available capacity that uses the same terms and conditions used for the expansion project open season. Texas Gas must also provide in its tariff that if the available capacity open season is held after the expansion open season, Texas Gas will use the same terms and conditions used in the expansion open season.

7. Finally, Cities requests that the Commission direct Texas Gas to clarify its proposal with respect to holding an open season. Cities states that among the items Texas Gas proposes to include in a posting of reserved capacity is “whether, and if so when, Texas Gas anticipates that an open season for the capacity will be held or the reserved capacity will otherwise be posted for bids.” Cities states that this should be clarified to make clear that an open season is mandatory. The Commission denies this request. Texas Gas’ proposal also states that “Texas Gas may only reserve capacity for a future expansion/extension project for which an open season has been or will be held within one (1) year...” This clearly mandates an open season for the expansion capacity either prior to or subsequent to reserving the capacity, and the Commission declines to order any additional clarification.

8. The Commission conditionally accepts Texas Gas’ revised tariff sheets effective July 1, 2005, and directs Texas Gas to file revised tariff sheets consistent with the discussion above within thirty days from the date of this order.

By direction of the Commission.

Magalie R. Salas,
Secretary.